RESPONSE/ARGUMENTS

Claims 1-6 and 8-16 remain in the application. Claims 7 and 17 have been cancelled. Claims 1 and 13 have been amended. Claim 1 was amended to correct a typographical error, a semicolon was added to the end of the "(j) determining ..." limitation. Claims 1 and 13 were amended to change the limitation "determining one or more offsets that correspond to one or more factors that include: the property type, a property condition, a loan term, an overpar spread, a ground lease or a single tenant" to "determining offsets that correspond to: a property condition and an overpar spread."

The Examiner rejected claims 1-17 under 35 U.S.C. 103(a) as being unpatentable over applicant's disclosure in the background of the invention which discloses that the interest rate for a loan quotation has been determined by looking up an interest rates or a spread in an industry standard pricing grid based upon the property's DSCR, which is the ratio of the net operating income of the property to the mortgage. The Examiner argues that the claimed invention is merely automating a manual loan quotation method. The applicant respectfully disagrees with the Examiner's statement that, "[T]here is no enhancement found in the claimed step other than the known advantage of increased speed. The end result is the same as compared to the manual method." (Office Action Page 5.)

The applicant submits that the claimed method for determining an interest rate includes determining offsets that correspond to a property condition and an overpar spread are not currently found in existing DSCR calculations and not disclosed in the background of the pending application. For reference, the background of the pending application has been reproduced below:

The determination of an appropriate interest rate for prospective borrowers is a crucial process in the field of commercial money lending. Various different factors are taken into account by lenders when quoting interest rates to prospective borrowers and correspondent lenders. For commercial mortgages, which are mortgages secured by real property that is income generating, one of the most important factors is the Debt Service Coverage Ratio (DSCR). This ratio is defined the net cash flow or net operating income of the property divided by the total debt service. The net operating income is the income from a rental property that remains after all of the operating expenses have been paid. The net cash flow is the operating income less tenant improvement costs, leasing commissions, capital expenditures, and other costs customarily included by the commercial mortgage industry. The total debt service includes the principal and interest payments of all loans on the property.

The higher the DSCR, the more net operating income is available to service the debt. A lender typically desires as high a DSCR as possible, and in general this ratio should be greater than one-to-one because it means the property is generating enough income to pay its debt obligations. A borrower, on the other hand, typically wants as large a loan as possible, but the larger the loan, the higher the debt service (mortgage payments). If the net operating income stays the same and the loan size (and therefore the debt service) increases, the DSCR decreases. Various lending companies and financial institutions have different DSCR requirements. For example, life insurance companies generally require a conservative 1.25 or 1.35 DSCR, which generally corresponds to low loan-to-value ratios. Savings and Loans institutions generally require only a 1.20 DSCR, and will sometimes accept a DSCR as low as 1.10. A DSCR of 1.0 is referred to as a break-even cash flow because the net cash flow or net operating income (NOI) is just enough to cover the mortgage payments (debt service).

Various factors regarding the borrower also impact the size and interest rate for a loan. For example, the credit history of a borrower, as well as his or her financial status and perceived ability to pay back a loan are factors that greatly determine a borrower's eligibility for a loan and the price, in terms of interest rate, of the loan.

Present methods of providing interest rate quotations are generally manual methods in which loan company or bank personnel use the DSCR to visually identify an appropriate interest rate published on a pricing grid. Such a pricing grid is typically an industry standard matrix of recommended interest rates or spreads corresponding to specific DSCR values, and may be published periodically and made available to interested lenders. Interest rates can be determined and quoted based on various

> different loan and borrower parameters. One popular type of interest rate quotation is the cash flow-based interest rate in which the interest rate is determined or estimated by a lender based primarily upon the amount of a property's net cash flow relative to the loan payment amount (i.e., DSCR). In general, as net cash flow increases relative to the loan payment, the interest rate decreases. A disadvantage of present cash flow-based interest rate quotation systems is that by relying on an interest rate provided by a published rate sheet, the quoted rate is static, and does not take into consideration the dynamic nature of the relationship between the interest rate, loan size, property type, and net cash flow. Furthermore, the absence of a computer network application to provide cash flow-based loan quotations impairs a lender's ability to quickly and efficiently deliver interest rate quotations to its borrowers or prospective borrowers.
>
> What is needed, therefore, is an improvement over present manual methods of providing loan quotations that rely on the visual identification of appropriate interest rates published on a pricing grid based on DSCR values. This is provided by a loan application and interest rate quotation system that automates the calculation of a cash flow-based interest rate so as to materially resolve the circular reference inherent in the determination of a cash flow-based interest rate. This circular reference exists because the DSCR is dependent upon the loan payment amount, which is dependent upon the loan interest rate, which, in turn, is ultimately dependent on the DSCR (for cash flow-based interest rates). (Application Page 1, line 10 – Page 4, line 15.)

Because the offsets for the property quality and over par spread are not disclosed or suggested in the background, the applicant submits that the claims 1 and 13 are not invalid as obvious under 35 USC 103(a) in view of the background. Claims 2-6 and 8-12 depend from claim 1 and claims 14-16 depend from claim 13. Thus, all pending claims include the property condition and over par spread claim limitations. The applicant submits that the claims 2-6, 8-12 and 14 –16 are not invalid as obvious under 35 USC 103(a) in view of the background for the same reasons discussed in claims 1 and 13 above.

The applicant respectfully requests that the above described amendments be made part of the official record in the present application, and respectfully submit that support for the claim amendments and is present in the specification, claims, and drawings as

originally filed, including patent applications incorporated by reference, and that no new matter has been added.

If there are any shortages, the Examiner is authorized to charge our Deposit Account Number 04-0822.

Respectfully submitted,

DERGOSITS & NOAH LLP

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